UNITED NATIONS

E/NL.1992/19
26 May 1992
ENGLISH ONLY*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

THAILAND

Communicated by the Government of Thailand

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

ACT ON MEASURES FOR THE SUPPRESSION OF OFFENDERS IN AN OFFENCE RELATING TO NARCOTICS - 19 SEPTEMBER 1991

*Note by the Secretariat: This document is a direct reproduction of the translated text communicated to the Secretariat.

V.92-54670

Act on Measures for the Suppresssion of Offenders in an Offence Relating to Narcotics*

B.E. 2534

BHUMIBOL ADULYADEJ, REX.,

Enacted on the 19th Day of September B.E.2534 ;

Being the 46th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that :

Whereas it is expedient to have a law on measures for the suppression of offenders in an offence relating to narcotics;

Be it, therefore, enacted by the King,by and with the advice and consent of the National Legislative Assembly as follow :

Section 1. This Act is called the "Act on Measures for the Suppression of Offenders in an Offence Relating to Narcotics B.E. 2534".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act,

"narcotics" means nacotics under the law on narcotics and narcotics under the law on narcotics control as prescribed in the Ministerial Regulation by the Minister ;

"laws relating to narcotics" means the law on narcotics and the law on psychotropic substances;

---

* Unofficial translation

"offence relating to narcotics" means the production, importation, exportation, disposition of or possession for disposition of narcotics and also includes conspiracy, aiding and abetting, assisting or attempt "

"properties connected with the commission of an offence" means money or properties on account of the commission of an offence relating to narcoties and including other money or propeties acquired by means of purchasing or doing in any manner whatever to transform the nature of such money or properties which regardless of times of its transformations which are occured and regardless that such money or properties vest in the possession of or ownership belonging to other person or evidenced in the register records as belonging to other persons :

"Committee" means the Properties Examination Committee;

"member" means a member of the Properties Examination Committee and including the Chairman of the Properties Examination Committee;

"Fund" means the Narcotics Control Fund;

"competent official" means a person appointed by the Minister for the execution of this Act;

"Secretary-General" means the Secretary-General of the Narcotics Control Board;

"Office" means the Office of the Narcotics Control Board;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 4. The Prime Minister shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue Ministerial regulations and rules for the execution of this Act.

Such Ministerial Regulations and rules shall come into force upon their publication in the Government Gazette.

Chapter 1

General Provisions

Section 5. Any person who commits an offence relating to narcotics, despite the fact that an offence is committed outside the Kingdom, shall be punished in the Kingdom, if it appears that:

(1) the offender or any one of his accomplices is a Thai person or has a place of residence in Thailand;

(2) the offender is an alien and intends its consequence to occur within the Kingdom or the Thai Government is the injured person; or

(3) the offender is an alien and such offence is an offence under the law of the State in the jurisdiction of which the commission has occurred, if such offender appears to be in the Kingdom and has not been extradited under the law on extradition;

provided that, section 10 of the Penal Code shall apply *mutatis mutandis*.

Section 6. Any person who does any of the following acts shall likewise be liable to the same penalty as a principal:

(1) aiding and abetting or assisting the offender before or at the time of such commission;

(2) providing or giving money or properties,a vehicle, a place or any article in order to the benefit or facility of the commission of an offence;

(3) providing or giving money or properties, a meeting place, a lodging or hiding place in order to assist or facilitate the offender or to help him from being arrested;

(4) accepting money or property or any other benefit from the offender for the purpose of committing an offence or facilitating the

commission of an offence or in order that the offender shall not be punished;

(5) disclosing, concealing or taking away of narcotics or any article used in the commission of the offence in order to help the offender;

(6) suggesting or contacting other person for the purpose of committing the offence.

In the case where the person who provides or gives money or properties, a lodging or a hiding in order to help his or her own father, mother, child, husband or wife, the Court may impose no punishment or less punishment than that provided by law for such offence

Section 7. Any person who attempts to commit an offence relating to narcotics shall likewise be liable to the same penalty imposed for such offence as the offender who has accopmlished the offence.

Section 8. Whenever two or more persons agree with the intention to commit an offence relating to narcotics, every such person is said to conspire to commit the offence relating to narcotics, and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five fifty thousand Baht or to both.

If an offence relating to narcotics has been actually committed on account of the conspiracy under paragraph one, every such conspirator shall be liable to the penalty imposed for such offence.

Section 9. Any person who commits an offence relating to narcotics by wearing uniform or clothing in such a manner as to cause any person to believe that he is an official, Government official, local government official, official of a State organization or State agency or official of a State enterprise shall be liable to the additional punishment of one-half of the penalty imposed for such offence.

Section 10. Any member or member of the sub-committee under this Act or under the laws relating to narcotics, official, member of the State

Legislative assembly, member of the Province Assembly, member of the Municipal Assembly, or member of any other local Assembly,government official, local government official, official of a State organization or State agency or employee of a State enterprise, who commits an offence relating to narcotics, or commits an offence under section 42, shall be liable to treble penalty imposed for such offence.

Section 11. Any member or member of the sub-committee under this Act or under the laws relating to narcotics, official or government official, wh commits an offence of malfeasance in office or an offence of malfeasance in judicial office as provided in the Penal Code in connection with the commission of an offence relating to narcotics, shall be liable to treble penalty imposed for such offence.

Section 12. The determination of the punishment of imprisonment to be imposed upon the person committing an offence under section 9, section 10 or Section 11 shall be not exceeding fifty years.

Section 13. In the execution of this Act, the members, members of the sub-committee, the Secretary-General and competent officials shall be officials under the Penal Code.

Section 14. Arresting or informing of charge an offender under section 6 or section 8 shall be first approved by the Sectretary-General before, and the implementation in compliance with such approval shall be forthwith reported to the Secretary-General.

Requesting for the approval, approving or reporting under paragraph 1 shall be in accordance with the ruegulations,procedure and conditions as prescribed in the Ministerial Regulation.

Chapter II

Properties Examination Committee

Section 15. There shall be a Properties Examination Committee, consisting of the Chairman of the Commission of Counter Corruption as the Chairman, Permanent Secretary of the Ministry of Justice as the Vice-Chairman, Attorney General, Secretary-General of the Juridical Council (Secretary-General of the Council of State), Auditor-General of the Office of the Auditor-General of Thailand, Director-General of the Police Department, Director-General of the legal Execution Department, Director-General of the Customs Department Director-General of the Department of Lands and Governor of Bank of Thailand as members and the Secretary-General as member and secretary.

The Committee may appoint any government official of the Office to be assistant secretary.

Section 16. The Committee shall have the following power and duties:

(1) to submit recommendations to the Minister in respect of the issuance of Ministerial Regulations under section 14, section 21, section 22, section 23, and section 33;

(2) to examine the properties connected with the commission of an offence relaling to narcotics;

(3) to seize or attach the properties under section 22;

(3) to decide whether or not any property of the alleged offender or of the other persons is connected with the commission of an offence relating to narcotics;

(4) to seize or attach the properties under section 22;

(5) to prescribe rules relating to the retention, auction and utilization of the properties under section 24 and prescribe regulations of

the Fund under section 37 and section 38.

The Committee may entrust members of sub-committee or the Secretary-General to examine the properties under (2),or to seize or attach under (4) and report to the Committee.

Section 17. At a meeting of the Committee, the presence of not less than two-thirds of the total number of members is required to constitute a quorum.

The Chairman of the Committee shall preside over the meeting. In the case where the Chairman is not present at the meeting or is unable to perform his duty, the Vice-Chairman of the Committee shall preside over the meeting. If the Vice-Chairman is not present at the meeting or is anable to perform his duty, the members present shall elect one member to perside over it.

The decision of the meeting shall be by two-thirds of the votes of the members present. Each member shall have one vote.

Section 18. The Committee may appoint a sub-committee to consider and submit opinions on any matter or carry out any act as entrusted, and Section 17 shall apply *mutatis mutandis*.

The Committee may entrust the competent official to examine the properties on its behalf and to report to the Committee.

Section 19. In the case where there exists reasonable ground to suspect that any property of an alleged offender is connected with the commission of an offence relating to narcotics, the committee shall order the examination of the properties of such person.

In case of an urgent necessity, the Secretary-General may order the examination of an allage offender and then reports to the Committee.

Section 20. In conducting the examination of the alleged offender's properties, if there are sufficient evidences to believe that any property of other persons is connected in any manner whatsoever with the commission of the offence relating to narcotics owing to other persons had gratuitously recieved

such properties or had knowingly recieved that the property is connected with the commission of an offence relating to narcotics, the committee shall also order the examination of the properties of such persons. And section 19 paragraph 2 shall apply *mutatis mutandis.*

Section 21. The Committee or the Secretary-General may entrust the competent official to examine the properties on its behalf and report the finding to it by mean of notification so that a person who may claim to be the owner of the properties may submit an application together with documents and evidences to the Committee for restitution thereof.

The examination and notification under paragraph one shall be in accordance with the regulation, procedure and conditions as prescribed in the Ministerial Regulation.

Section 22. In examining the properties, if the person who is examined or the person who claiming claims to be the owner of the properties cannot adduce evidences showing that the properties so examined are not connected with the commission of an offence relating to narcotics or transferred in good faith and for value or reasonably acquired in the course of good moral or public charity, the Comittee shall issue an order seizing or attaching such properties until the issuance of the final non-prosecution order which shall be no longer than one year as from the date of seizure or attachment or the passing of a final judgment dismissing such charge the charge in such case.

For the purpose of the examination of the properties, if there is a reasonable ground to believe that the properties may be transferred, removed, concealed or if other reasons or necessities occur, the Committee shall issue an order seizing or attaching such properties until having the decision under section 16 (3). In this case, this order does not bar the right of the person who is examined or the person who claims to be the owner of the properties to submit an application requesting for the utilization of such properties without

bail or with bail, or with or without security. And the provisions of section 19 paragraph two shall apply *mutatis mutandis*.

After such seizing or attaching , the Committee shall prove under paragraph one without delay. If the person who is examined or the person who claims to be the owner of the properties can prove under paragraph one, the properties shall be restored to such person. If such person is unable to prove, it shall be deemed that the seizure or attachment under paragraph two is the seizure or attachment under paragraph one.

The submission of an application under paragraph two shall be in accordance with the regulations,procedure and conditions as prescribed in the Ministerial Regulation.

For the purpose of this section, the expression "properties" shall include:

(1) the properties which have been transformed, the claims, benefits and fruits thereof;

(2) the debts due to be paid by the third person to the alleged offender;

(3) the properties connected with the commission of an offence relating to narcotics which the alleged offender have been acquired, sold, disposed of, transferedor removed within the period of two ten years before the issuance of the orderof seizure or attachment and thereafter unless the transferee or beneficiary can prove to the Committee that such transfer or legal transaction has been made in good faith and for value.

Section 23. When the Committee or the Secretary-General, as the case may be, has already issued an order seizing or attaching any property, the competent official entrusted by the Committee shall execute the seizure or attachment order without delay, and then reports to the Committee.

The seizure or attachment and the assessment of value of the properties

seized or attached shall be in accordance with the regulations,procedure and conditions as prescribed in the Ministerial Regulation.

The Civil Procedure Code shall apply *mutatis mutandis*.

Section 24. The custody of the properties seized or attached by the order of the Committee shall be in accordance with the rules prescribed by the Committee.

In the case where the properties under paragraph one are unsuitable for the custody or the custody of such properties will be more burdensome to the official service than other utilization thereof other purposes, the Secretary-General may issue an order for the auction or utilization of such properties for official purposes, and then reports to the Committee.

Auction or utilization under paragraph two shall be in accordance with the rules prescribed by the Committee with the approval of the Ministry of Finance

If it appears thereafter that the properties utilized for official purposes under paragraph two are not the properties connected with the commission of an offence relating to narcotics, the Committee shall restore the properties to its owner or the possessor together with the compensation and depreciation paid from the Fund in an amount determined by the committee. If the Committee cannot restore the properties,it shall compensate the value of the properties in an amount as assessed on the date of seizure or attachment of such properties or as received from the auction of such properties, as the case may be.

The assessment of the compensation and depreciation under paragraph four shall be in accordance with the rules prescribed by the Committee.

Section 25. For the purposes of consideration and examination and the seizure or attachment of properties under this Act, the members, the members of the sub-committee and the Secretary-General shall have the following powers:

(1) to issue an inquiry letter to or summon an official of a government

agency, State organisation, State agency or State enterprise to give his statements or to send explanations in writing, accounts, documents or evidences for examination or implementing the consideraton;

(2) to issue an inquiry letter to or summon any person concerned to give statements or to send explanations in writing, accounts, documents or evidences for examination or implementing the consideration, including the examination from the banks, the securities exchange and financial institutes;

(3) to enter, by daylight and between sunrise and sunset, any dwelling place, place or vehicle where there is a reasonable ground to suspect that an offence relating to narcotics is committed or the properties under section 22 are hidden therein, for the purposes of searching or examination, seizure or attachment of the properties. In the case where there is a reasonable ground to believe that without prompt action being taken, the properties are likely to be removed, the entry may be made during night time.

In the case under (3), the Chairman of the Committee or the Secretary-General may entrust the competent official to act on his behalf, and then reports to him.

In the performance of duty, the competent official entrusted under paragraph two shall present the instrument of authorization to whom it may concerned.

Section 26. If the seizure or attachment of property under section 22 is a lawful act, even though it causes damage to any person, the person doing such act is not liable to pay compensation therefor.

Section 27. After the Public Prosecutor has issued a prosecution order and the properties seized or attached by the order of the Committee under section 22 are the properties connected in any manner whatsoever with the commission of an offence relatingto narcotics, the Public Prosecutor shall make the application requesting the Court to order the confiscation of the properties.

The application may be made together with the charge or before the Court of First Instance passes the judgment.

After the Public Prosecutor has made the application to the Court, the Secretary-General shall notify it so that any person who may claim to be the owner of the properties may make the application requesting to appear in the case before the case is final. If there is an evidence showing that any person may claim to be the owner thereof, the Secretary-General shall give a written notice to that person to exercise his right..

In the case where the Court of First Instance has passed the judgment and it appears that there are additional properties connected in any manner whatever with the commission of an offence relating to narcotics, an application requesting the Court to issue the seizure confiscation order shall be filed at any time before the case becomes final, and the provisions of paragraph two shall apply *mutatis mutandis*.

Section 28. In making the notification under section 27 paragraph two, it shall be pinned up at the Office and at the police station of the locality whereby the seizure or attachment of the properties took place for at least seven consecutive days, and it shall be published in a newspaper which is widely distributed in the locality for at least two consecutive days. In respect of giving the notice under section 27 paragraph two, it shall be given through an A/R registered post to the most recent address of such person as appeared in the file.

Section 29. The Court shall inquire all property which the Public Prosecutor made the application under section 27 paragraph one threron. If it is appear that such properties are the properties connected with the commission of an offence relating to narcotics, the Court shall issue the confiscation order of such properties. Except the person who claims to be the owner submits an application for restitution before the case becomes final and can prove

before the Court that:

(1) he is the owner of the properties and the properties are not connected with the commission of an offence relating to narcotics; or

(2) he is the transferee or the beneficiary and he has acquired the properties in good faith and for value or the acquisition threrof is reasonable in the course of good moral or public charity.

For the purpose of this section, if there is an evidence showing that the accused or the examinee is concerned or have ever concerned with the commission of an offence relating to narcotics, it shall be presumed that all money or property in his possession or acquisition which does not in line with the station in life, or the capacity out of occupation or other activities in good faith is the properties connected with the commission of an offence relating to narcotics.

Section 30. All instruments, equipments, vehicles, machineries or any other properties used in the commission of an offence relating to narcotics, or used as accessories for producing the consequence of the commission of an offence or possessed for use in the commission of an offence shall be confiscated, irrespective of whether any person is convicted by the judgment or not.

The Public Prosecutor shall file with the Court an application requesting the confiscation order under paragraph one. Upon the filing thereof, the competent official shall publish for at least two consecutive days in a daily newspaper which is widely distributed in the locality so that the person who may claim to be the owner of the properties may submit an application requesting to appear in the case before the Court of the First Instance passes the judgment or issues the order, irrespective of whether or not in such case any person who may likely be the owner will.

In the case where no person claims to be the owner before the Court of the First Instance passes the judgment or issue the order, or where the owner

appears but fails to prove that he has no means to know or there is no reasonable ground to suspect that the offence will be committed and the properties will be used in the commission of the offence or the accessories is used to produce the consequence of the offence or possessed for use in the commission of the offence, the Court shall issue the order confiscating such properties on the lapse of thirty days as from the first day of the publication in the daily newspaper under paragraph two. In this case, section 36 of the Penal Code shall not apply.

Section 31. Properties confiscated by order of the Court under section 29 and section 30 shall become the propertis of the Fund.

Section 32. In the case where there is the final non-prosecution order or where there is the final judgment dismissing the charge against any alleged offender or any accused, the seizure or attachment of his properties including those of other persons seized or attached on account of their connection with the commission by the alleged offender or the accused of the offence shall terminate. With respect to the properties seized or attached on account of the commission by the alleged offender or the accused of the offence, the owner of which is not known, if no person makes an application for their restitution within one year as from the date of the final non-prosecution order or the final judgment dismissing the charge, the properties shall become the properties of the Fund.

In the case where the criminal prosecution cannot be instituted within two years from the date of the commission of an offence and the alleged offender or the accused can not be arrested, the properties seized or attached on account of the commission by the alleged offender or the accused of the offence shall become the properties of the Fund. If the criminal prosecution cannot continue owing to the death of any alleged offender, the properties shall be restored to the heirs of such alleged offender; or any accused, the properties shall become the properties of the Fund, except within two years as from the date of his death and his heirs can prove that the properties are not connected with the

commission of an offence relating to narcotics, or the alleged offender or the accused acquired such properties in good faith and for value or reasonably acquired in the course of good moral or public charity, such properties shall be restored to his heirs.

Section 33. The procedure for the restitution of properties shall be as prescribed in the Ministerial Regulation.

Section 33. With respect to the requisition of the properties, the application shall be submitted together with the documents and evidences to the Committee.

The requisition for restitution and the restitution of the properties shall be in accordance with the regulation, procedure and conditions as prescribed in the Ministerial Regulation.

Chapter 111

Narcotics Control Fund

Section 34. There shall be a Narcotics Control Fund in the Office for the purpose of narcotics control.

Section 35. The Fund under section 34 shall consist of the following properties:

(1) the initial capital under section 36;

(1) the properties vested in the Fund under section 31 and section 32;

(2) the properties confiscated by order of the Court under section 31 or the properties vested in the Fund under section 32;

(3) (2) the properties donated by other persons;

(4) (3) the Gevernment subsidies;

(5) (4) the benefits arising from the properties under (1), (2) and (3).

Section 36. The Fund under section 35 shall belong to the Office

without being remitted as State revenue.

Section 37. The receipt, payment and the keeping of money of the Fund shall be in accordance with the rules prescribed by the Committee with the approval of the Ministry of Finance.

Section 38. The investment, management and disposal of properties of the Fund shall be in accordance with the rules prescribed by the Committee with the approval of the Ministry of Finance.

Section 39. Within six months as from the last day of the calendar year, the Secretary-General shall submit to the Minister for resubmitting to the Council of Ministers the balance-sheet and the report on the receipt and payment of the Fund which have been audited and certified by the Office of the Auditor-General of Thailand.

In the case where the Council of Ministers is of the opinion that the Fund has so large amount of money that after its utilization under its objectives, a large sum still remains in account, the Council of Ministers may pass a resolution remitting any sum thereof as State revenue.

Chapter IV

Penalties

Section 40. Any person who does not give his statements or does not send explanations in writing or accounts, documents or evidences under section 25 (2) or obstructs or does not provide facilities under section 25 (3) shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding thirty ten thousand Baht or to both.

Section 41. Any person who knows or likely to know the secret of the official service relating to the execution under this Act doing in any manner whatever with intention to make other persons know or likely to know such secret, except it is the performance in compliance with his duties or under the laws, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht, or to both.

Section 42. Any person who damages, destroys, conceals, takes away with, causes the loss of or renders useless, or unlawfully receives the properties which the Committee has ordered the seizure or attachment under section 22 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding thirty thousand Baht or to both.

Countersigned by:
Anand Panyarachun